



Maine Creditor Update

Office of Consumer Credit Regulation



Issue #44

Regulatory News for Maine's Creditors

Sept./Oct., 2005

New Laws Include Measures to Fight I.D. Theft

Lawmakers in Maine's 122nd Legislature enacted numerous consumer credit and privacy-related statutes, including three measures designed to address the growing incidence of **identity theft**. These ID theft laws include:

- 1) **PL 243 (LD 581): An Act Regarding Identity Theft Deterrence ("file freeze" law).** This law, effective February 1, 2006, allows consumers to implement a security freeze on their consumer credit reports, and describes the requirements for requesting a freeze and for lifting a freeze temporarily or permanently. It establishes strict timelines for compliance by consumer reporting agencies. The law provides for free freezes for identity theft victims, and permits consumer reporting agencies to assess a fee for each freeze-related action taken on behalf of non-victims. In addition, it identifies exceptions to the security freeze requirements based on federal law and state enforcement requirements.
- 2) **PL 379 (LD 1671): An Act to Protect Maine Citizens from Identity Theft ("breach notification" law).** Effective January 31, 2006, this measure applies to "information brokers," a phrase defined to include companies such as ChoicePoint and LexisNexis that gather, store and sell computerized information about consumers. If the security of an information broker's data is breached, the law requires that the information brokers notify consumers, so that consumers can take steps (such as monitoring their credit accounts and credit reports) to minimize any damage from identity theft. The law also mandates two separate studies. First, the Department of Professional and Financial Regulation is required to produce a report on whether a notification requirement should be extended to other companies such as lenders or creditors that experience a security breach (see "Notice to Interested Parties", page 6). Second, the state's Chief Information Officer is called upon to study whether state agencies that experience a security breach should be required to notify affected consumers.
- 3) **PL 72 (LD 83): An Act to Prohibit Payment Card Skimming.** This law, which takes effect September 17, 2005, criminalizes the fraudulent use of 1) scanning devices that capture encoded information from a magnetic strip or stripe on a credit card, debit card or other payment card; and 2) re-encoders that place the information on another card.

★ ★ ★ ★

Other measures are of particular interest to **mortgage**

continued on page 2

Loan Officer Registration to Begin January 2006 for Loan Brokers and Mortgage Companies

Education Requirements to Follow in 2007

Effective January 31, 2006, the Office of Consumer Credit Regulation will implement a new law (Public Law 2005, Chapter 164) requiring registration of individual loan officers. Details of the program are as follows:

- 1) Registration is required of loan officers employed by loan brokers, as well as those employed by non-bank mortgage lenders.
- 2) Registration is only required of those loan officers who will have direct contact (by phone or in person) with Maine consumers.
- 3) Employees performing clerical or administrative functions need not register.
- 4) Registration will be 100% online, and the registration form will be accessed through our agency's website,

continued on page 4

Credit Counseling Questions Remain as Bankruptcy Law Effective Date Nears

Under the revisions to the federal bankruptcy law which will become effective October 17, 2005, most debtors will be required to attend a "financial management instructional course" during the 6-month period prior to filing a bankruptcy petition. The US Trustee's Office is responsible for setting up a program to certify the nonprofit "budget and credit counseling agencies" that will be approved to provide those courses.

Maine law (32 MRSA §6171 *et seq.*) already requires licensing of nonprofit "debt management" companies that establish budget plans, accept payments from consumers and then distribute those payments among the consumers' debtors. Whether those same companies will be offering the "financial management" courses is unclear. However, a close reading of the new bankruptcy revisions reveals an indication that the drafters intended to encourage consumers to enter into repayment plans as a way of avoiding or delaying the filing of a bankruptcy petition.

For example, the law refers to the service providers as

continued on page 4

Mailing Address

Office of Consumer Credit Regulation
35 State House Station
Augusta, Maine 04333-0035
Tel (207) 624-8527
Fax (207) 582-7699

Inside:

Noteworthy Quotes 3
Payday Lending Study 5
ChoicePoint Follow-up 7
"Litigation Financing" 7
PMI Q&A 8

Office Location

Gardiner Annex
122 Northern Ave., Gardiner, ME 04345

World Wide Website
www.MaineCreditReg.org

*New Laws, continued from page 1***lenders and mortgage brokers:**

4) **PL 161 (LD 159): *An Act to Restrict Undocumented Mortgage Agreements*.** This law, effective September 17, 2005, prohibits real estate buyers, sellers and settlement agents from agreeing to side deals not reflected on closing documents if those side deals have the effect of overstating the value of the contract sale price.

5) **PL 291 (LD 469): *An Act to Simplify the Real Estate Foreclosure Process*.** This measure, which also takes effect on September 17 of this year, requires a lender who sells property at auction after foreclosure and who has acquired a writ of possession to deliver that writ of possession to the buyer along with the deed to the property.

6) **PL 274 (LD 686): *An Act to Amend the Maine Consumer Credit Code – Credit Services Organizations*.** This law changes references in Maine law from “credit services organizations” to “loan brokers,” a descriptive term better understood by the industry and by consumers. It also changes the state application process from a registration process to a licensing process and from an annual application to a biennial (once every two years) schedule. The law increases the surety bond from \$10,000 to \$25,000, and requires that license numbers appear in any print advertising placed by a loan broker. This law permits regulators to establish a system of continuing education for both loan brokers and supervised lenders, so that loan brokers and supervised lenders will be more knowledgeable in serving consumers. Although this measure is technically effective September 17, 2005, its changes will be implemented with the January, 2006 re-licensing process for loan brokers. Educational requirements for loan brokers and for mortgage lenders will be put in place in 2007.

7) **PL 164 (LD 1303): *An Act to Register Nonbank Loan Officers*.** This law requires the registration of loan officers, both for supervised lenders and for credit services organizations (loan brokers). It authorizes the Office of Consumer Credit Regulation to suspend or revoke the registration of a loan officer independently of any action against the loan officer’s employer. This law permits the State to track a specific individual loan officer, which is an approach that has been adopted by most states and which has been made necessary by loan officers who cause problems at one loan company, and then leave only to resurface with other companies. The Office of Consumer Credit Regulation plans to implement this new law starting with the January, 2006 re-licensing process for loan brokers, and on the same date for supervised lenders as part of the filing of lenders’ annual MCCC-1 volume fee reports. (See related story, page 1.)

8) **PL 206 (LD 1416): *An Act to Amend the Maine Consumer Credit Code*.** Effective September 17, 2006, this law makes several changes to the Maine Consumer Credit Code. It requires that mortgage lenders, assignees and mortgage servicers use due care to ensure timely payment of taxes and insurance from consumer escrow accounts, and respond promptly to requests for payoff amounts on existing loans. The law also increases the ability of the State to regulate fraudulent advertising that contains misinformation reflecting negatively on this State and its legitimate lenders. Finally it extends Maine Consumer Credit Code registration requirements to servicers of all types of consumer credit transactions, including sales, loans and leases,

so that consumer complaints resulting from that servicing can be promptly addressed.

9) **PL 211 (LD 1286): *An Act to Require Additional Disclosure Regarding Private Mortgage Insurance (PMI)*.** Starting September 17, 2005, this law will require supervised lenders and mortgage brokers to disclose to persons applying for a mortgage or residential real property if the mortgage loan includes private mortgage insurance and if the company processing or underwriting the loan application also engages in the business of selling or brokering private mortgage insurance. (See related item, page 8.)

★ ★ ★ ★

Finally, two new laws deal with the disparate topics of **pay-day lenders and payroll processing companies:**

10) **Resolve #24 (LD 788): *Resolve, Authorizing the Office of Consumer Credit Regulation to Study the Payday Advance Industry and Related Consumer Credit Lending Issues in Maine*.** This resolve requires the Office of Consumer Credit Regulation to conduct a study evaluating 1) whether there exists market demand for increased payday lending opportunities in Maine; 2) whether current law adequately protects Maine consumers; and 3) the impact that a change in the payday lending laws would have on consumers. (See “Notice to Interested Parties”, page 5.) The resulting report must be delivered to the Legislature on February 1, 2006.

11) **PL 278 (LD 633): *An Act to Improve the Surety Bond Requirements for Small Payroll Companies*.** This law, which became effective upon its June 2, 2005 signing by the Governor, lowers the application fees for small payroll processors, increases fees for the largest companies, and lowers the minimum surety bond requirement from \$100,000 to \$50,000. It also clarifies that payroll processors that exclusively utilize an EFT (Electronic Funds Transfer) process to transmit funds directly from employers to the state and federal governments, are exempt from the surety bonding requirement.

The text of each of the above statutes is available at: <http://janus.state.me.us/legis/ros/lom/LOM122nd/LOMDirectory.htm>

STATE OF MAINE OFFICE OF CONSUMER CREDIT REGULATION

Director	William N. Lund
Examiner-in-Charge	Mary Young
Principal Examiner	Del Pelton
Principal Examiner	Richard Howard
Principal Examiner	David Stetson
Principal Examiner	David Leach
Senior Examiner	Douglas Stark
Senior Examiner	Douglas Jennings
Senior Examiner	Kristine Fournier
Administrative Secretary	Doris Whitaker
Clerk/Typist IV	Lorna Plaisted
Clerk/Typist III	Emilie Sinclair
Clerk/Typist II	April Breton

Noteworthy Quotes

“The repo man threatened to sit on the hood of my car in front of my house all night.”
 – Portland woman who disputed an auto finance company's claim that she was behind on a payment.

“You can't close the credit account belonging to your deceased father; only your father can close his account.”
 – Austin, Texas computer finance company, according to a Brunswick, Maine consumer. The matter was resolved following our agency's intervention.

“There is no way that a CEO can know everything that is going on . . . I am not involved in the day-to-day operations of the business.”

– ChoicePoint CEO Derek Smith, explaining to the Associated Press that he knew nothing about the breach of his company's computer files and theft of data on 145,000 consumers until late January, 2005, even though a man was arrested and jailed for the crime three months earlier.

“In response to your agency's request that we verify the alleged mail-order debt, we have talked to our client and although we cannot provide proof that the merchandise was received or by whom, we are fairly certain that the merchandise was delivered and that the balance is due.”

– Minnesota debt collector's response to our request to verify a disputed debt. We determined that the response did not suffice as verification under the Fair Debt Collection Practices Act.

“I got my car back from the repo company, but my ‘Cher's Farewell Tour’ CD was missing.”

– Newcastle, Maine music fan. We resisted telling her that Cher would likely have another farewell tour and another CD.

From the “We know what you meant to say” department:

“The collector involved in this incident has been couched by her supervisor to learn how to deal with consumers in a

more courteous manner.”

– Response to our office from a New York collection agency to allegations of abusive language.

“The letter from the collector was so bad that I almost went into a comma.”

– Lewiston woman's letter about an out-of-state collection agency.

“If the consumer continues to complain that his air wrench doesn't work, have him call our tool-free number...”

– Florida collector's letter to our office.

“The lender hasn't released insurance funds to let me repair my house following last winter's storm. As a result, I haven't been able to go to the bathroom since early January.”

– York, Maine consumer in need of relief.

“Your computer work order has been completed. The report you requested still won't run, but the error message will no longer display.”

– Message resulting from early bugs in the computerized licensing and complaint system being installed in the Department of Professional and Financial Regulation. The problems have since been resolved.

“Missouri has no law regulating title companies or settlement agents. We've had two companies become insolvent in the last 3 months, and escrowed funds have been lost. In fact, you could say that the folks whose funds were escrowed, were screwed.”

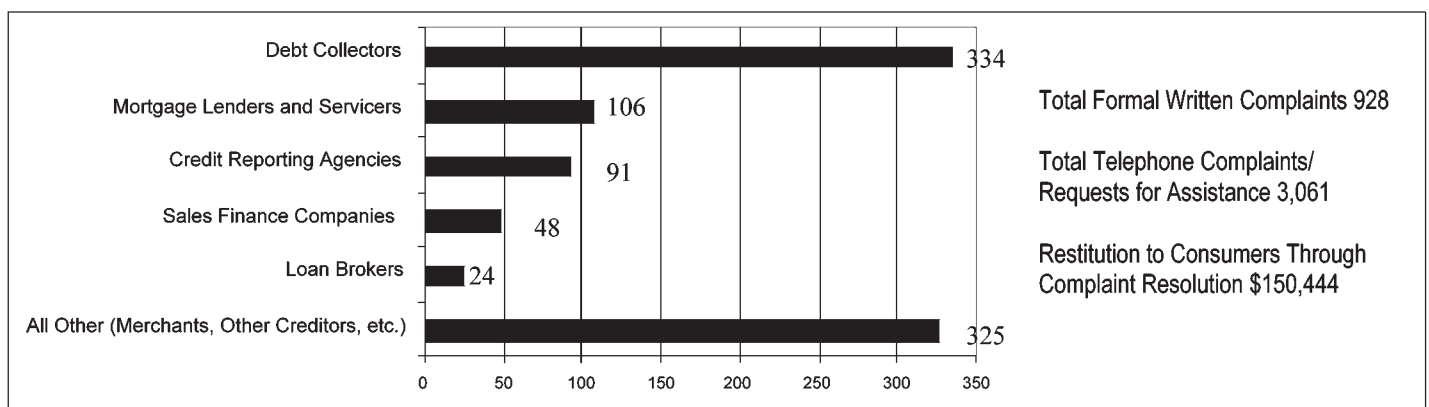
– Steve Geary, longtime consumer credit chief in Missouri.

“The tenant owes us the following itemized damages: Back rent - \$850. Cleaning the apartment - \$100. Repairs to the apartment - \$750. Stress counseling for me and my wife - \$135.”

– Distraught Rockland-area landlord.

CONSUMER COMPLAINT REPORT

July 1, 2004 - June 30, 2005



Loan Officer Registration, *continued from page 1*

www.MaineCreditReg.org.

5) Payment will be made by mail, following the electronic registration. Companies will have 30 days from the date of registration to submit payment.

6) Registration will be required as of January 31, 2006. This date coincides with the license renewal for loan brokers (currently known as "credit services organizations"), and with the date by which supervised lenders must submit MCCC-1 credit volume / creditor registration forms.

7) An individual who holds a lender or loan broker license under a "d/b/a" name does not need to register himself or herself as a loan officer. However, loan officers working for such a sole proprietor must register.

8) The registration fee is \$20 per loan officer per year, up to a maximum of \$200 per company per year.

Education Requirements to Follow in 2007

A separate law, Public Law 2005, Chapter 274, permits the Office of Consumer Credit Regulation to promulgate rules establishing educational requirements for partners, officers, directors and employees of loan brokers and supervised lenders. Current plans call for the following sequence of events:

1) Because our agency's plan is to "link" completion of educational requirements to the loan officer registration program described above, no effort to develop an education program will be made until the loan officer registration program is up and running in early 2006.

2) In the spring and summer of 2006, the agency will issue a proposed rule regarding initial and continuing education requirements. All interested parties will have an opportunity to have input and, if a hearing is scheduled, to provide testimony and written submissions on the proposal.

3) Initially, the educational requirement may affect only sole proprietors and loan officers, since they are the individuals with whom consumers have the most direct contact. Standards for officers, directors and clerical employees may be pursued only if a perceived need arises.

4) Regarding the structure of individual courses, we have not reached any decisions at this time. Our agency does not plan to award any individual or company an exclusive ability to offer approved courses. Rather, a mechanism will be established whereby any qualified entity can submit an outline and other information about their proposed course of studies, and all qualified courses will be approved. We also have not yet determined whether any "core" courses (for example, ethics, truth-in-lending, or RESPA) will be required of all individuals. These details will be part of the rulemaking and policy decisions to be made prior to the intended January, 2007 rollout of the program.

★ ★ ★ ★

Written questions and comments about the above programs can be directed to Mary Young, Examiner-in-Charge, Maine Office of Consumer Credit Regulation, #35 State House Station, Augusta, ME 04333.

Affected by this Summer's Red Tide? Your Creditor May be Willing to Help

Hundreds of miles of Maine coastline were closed to shellfish harvesting this summer because of the worst bloom of "red tide" algae to affect the New England coast in more than 30 years.

Although not comparable in any way to the catastrophic effects of the recent Gulf Coast hurricane, the red tide nonetheless caused severe economic disruption in this state, and prompted the Governors of Maine and other northeast states to declare economic emergencies.

As with the Great Ice Storm of 1998, Maine consumers who contact their creditors for temporary relief may find a sympathetic ear. All large creditors and lenders have programs or policies to deal with customers' temporary economic hardships, especially those caused by natural events. In many cases, lenders will consider requests by consumers to defer (delay) one or two monthly payments. Accrued interest is usually added at the end of the term.

In our experience, lenders request the following information:

- 1) Was there a documented economic event? (In this case, consumers can cite Governor Baldacci's June 10, 2005 declaration of an "economic emergency" for those in the shellfish industry.)
- 2) Is the economic condition temporary, such that when the emergency passes the consumer will be as credit-worthy as before? (Consumers would make their own case here, citing, for example, their favorable history of payments prior to the red tide event.)

Although lenders and creditors are not required to honor requests for deferments for documented emergencies, in the experience of this regulatory agency most reputable companies are willing to consider such requests. If any Maine consumers affected by this summer's red tide feel that their reasonable requests for temporary deferment are not being duly considered, the Office of Consumer Credit Regulation will serve as a conduit to ensure that the requests are received by the appropriate decision-makers.

Credit Counseling Questions, *continued from page 1*

"budget and credit counseling agencies." In addition, §111(c)(2)(C) of the revised Bankruptcy Code requires that such companies "[p]rovide for safekeeping and payment of client funds, including an annual audit of trust accounts and appropriate employee bonding" And finally, §111(c)(2)(H) of the law requires that such companies "have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan."

PAYDAY LENDING STUDY NOTICE TO INTERESTED PARTIES

Legislative Resolve, Chapter 24 (2005) directs the Office of Consumer Credit Regulation to study payday lending and related credit activities. All interested parties, as well as the general public, are invited and requested to submit written input on the following questions:

- 1) What is the current market demand in the State of Maine for payday lending advance services or other unsecured subprime lending products? If state law should be changed with respect to this market demand, what specific statutory changes should be proposed?
- 2) Are current state consumer protection laws sufficient to regulate the offering of payday lending advance services or other unsecured subprime lending products as those products are currently available or as they may be offered in the future? If not, what specific statutory changes should be proposed?
- 3) What current consumer education services are offered with respect to payday lending advance services or other unsecured subprime lending products? Are those educational services sufficient to provide information to consumers about the products? If not, how can effective educational services be offered?

Written materials should be mailed as soon as possible, to the following address: Director, Office of Consumer Credit Regulation; #35 State House Station; Augusta, ME 04333; or the materials can be submitted by e-mail to doris.a.whitaker@maine.gov.

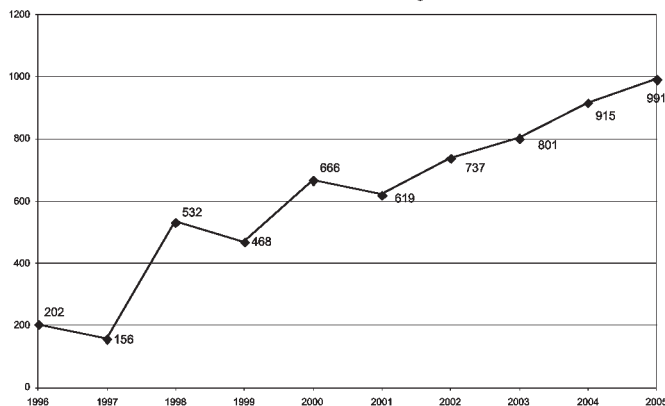
Interested parties will also have an opportunity to present their materials in person. The Director will be accepting testimony on Wednesday, September 21, 2005 beginning at 10 AM, in the Central Conference Room, State of Maine Gardiner Annex, 122 Northern Avenue, Gardiner, Maine 04345. Attendees will then have an additional seven (7) days to submit written information on issues or questions that arise at the public meeting.

Attendees are asked to RSVP to attend the September 21 meeting, so that proper accommodations can be provided. Contact Doris A. Whitaker, Administrative Secretary, at the above e-mail address, with questions.

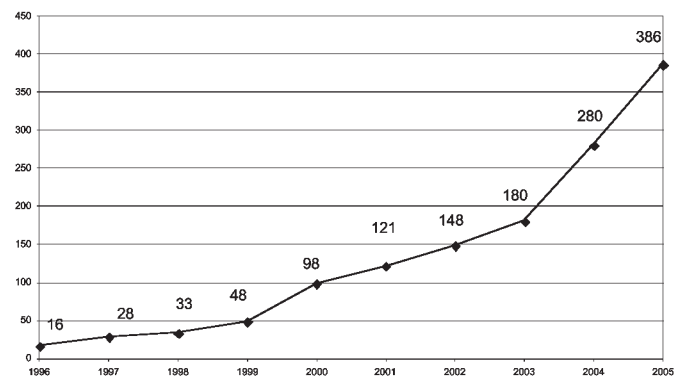
Regulatory Responsibilities Continue to Grow

As the charts below illustrate, the regulatory responsibilities of the Office of Consumer Credit Regulation have grown dramatically in recent years.

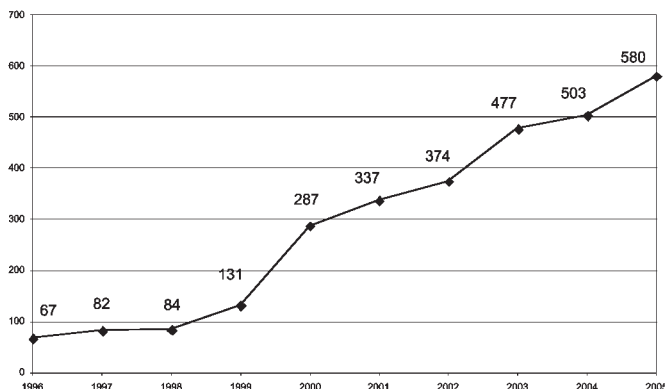
TOTAL NUMBER OF LICENSED SUPERVISED LENDERS BY FISCAL YEAR
Maine Office of Consumer Credit Regulation



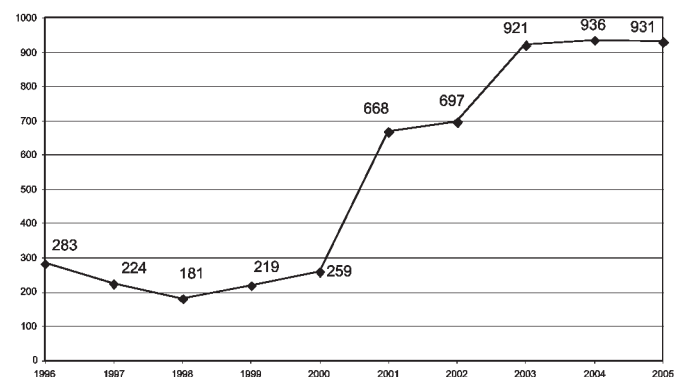
TOTAL NUMBER OF LICENSED LOAN BROKERS BY FISCAL YEAR
Maine Office of Consumer Credit Regulation



TOTAL NUMBER OF LICENSED DEBT COLLECTORS BY FISCAL YEAR
Maine Office of Consumer Credit Regulation



WRITTEN CONSUMER COMPLAINTS RECEIVED BY FISCAL YEAR
Maine Office of Consumer Credit Regulation



"DATA BREACH NOTIFICATION" LAW NOTICE TO INTERESTED PARTIES

Public Law 2005, Chapter 379, titled "An Act to Protect Maine Citizens from Identity Theft," requires that information brokers notify consumers if unauthorized persons acquire personal data that could result in identity theft. The law does not require notification of consumers by other types of companies (such as banks, merchants, credit reporting agencies or insurance companies) if those companies experience breaches of security resulting in theft of consumer's personal data.

Section 2 of the public law requires the Department of Professional & Financial Regulation to complete a study on data security and security breach requirements, and to deliver that study, and any suggested legislation, to the Insurance & Financial Services Committee by February 1, 2006.

The law requires the Department to consult with the Attorney General's Office, state financial regulatory agencies, business representatives, companies that store electronic consumer data, and consumer advocates.

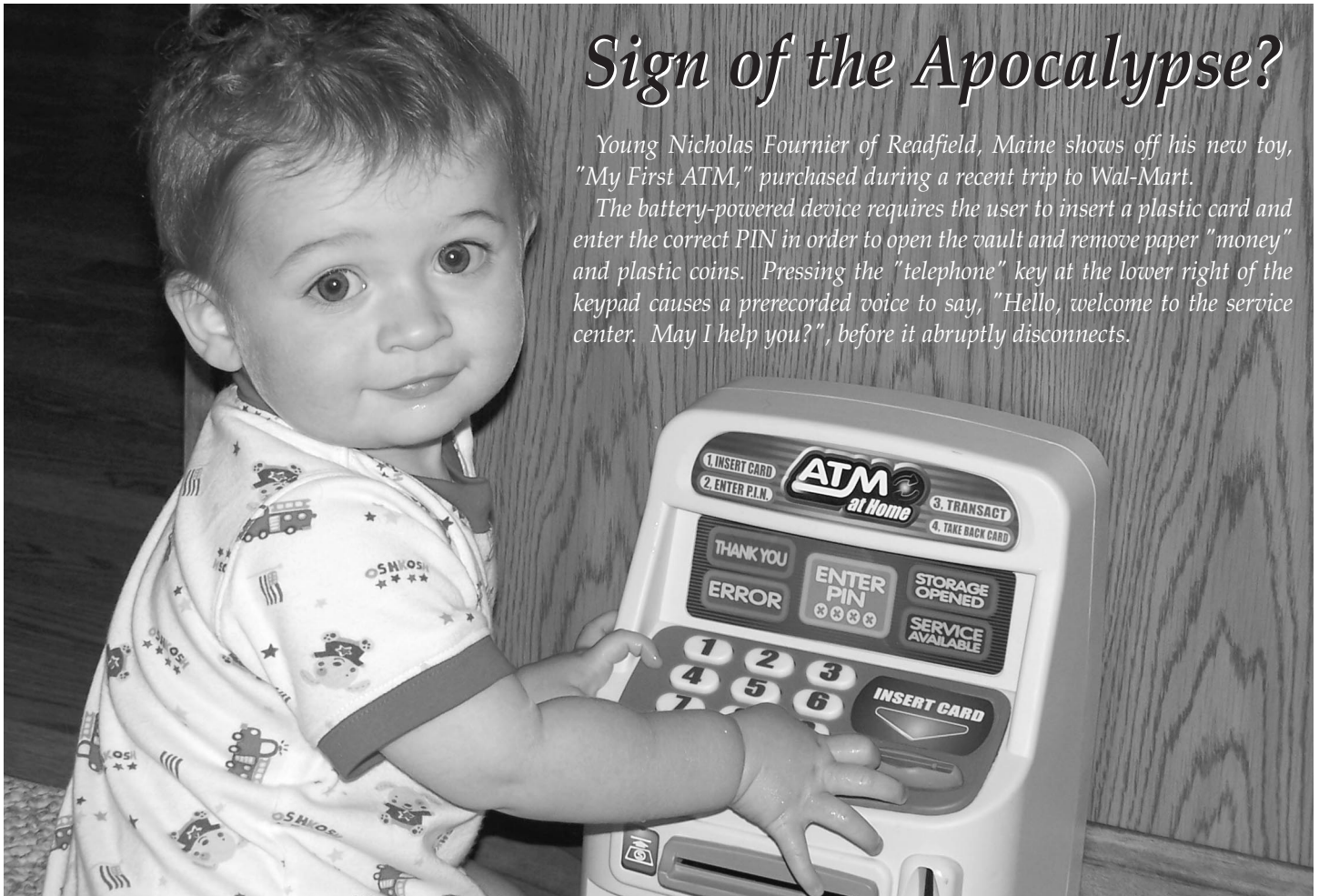
The statute establishes specific issues to be addressed:

- 1) *Current electronic data security plans used by businesses;*
- 2) *The value, practicality and costs of imposing additional requests, including notification requirements, on businesses;*

- 3) *An evaluation of the existing California breach notification law; and*
- 4) *Whether to establish a private cause of action for consumers injured by a violation of the law.*

All interested parties, as well as the general public, are invited to submit written input with respect to the issues set forth above. Those materials should be mailed, such that they are received on or before Friday, September 30, 2005 at 5 PM, to the following address: Director, Office of Consumer Credit Regulation; #35 State House Station; Augusta, ME 04333; or the materials can be submitted by e-mail to doris.a.whitaker@maine.gov.

Interested parties will also have an opportunity to present their materials in person. The Director will be accepting testimony on Tuesday, October 4, 2005 beginning at 10:00 AM, in the Central Conference Room, State of Maine Gardiner Annex, 122 Northern Avenue, Gardiner, Maine 04345. Attendees are asked to RSVP to attend the October 4, 2005 meeting, so that proper accommodations can be provided. Contact Doris A. Whitaker, Administrative Secretary, at the above e-mail address, with questions.



Survey Finds Many Maine Consumers Did Not Understand ChoicePoint's Data Breach Notification

Two hundred and sixty-five Maine residents were among the 145,000 consumers nationwide who received letters earlier this year telling them that their personal information might have been released in the much-publicized ChoicePoint data breach.

The Office of Consumer Credit Regulation wrote to each of those 265 consumers, to make certain that they had received and understood ChoicePoint's notification.

Of the 265 letters we sent, 71 were returned to our office as undeliverable. Of the remaining 194, 33 consumers wrote back to us to describe their reaction to ChoicePoint's earlier notification letter. Among the Respondents:

- 17 stated that they had received ChoicePoint's original notification
- 4 of those consumers took ChoicePoint up on its offer of a free credit report and one year of credit monitoring
- 12 stated that they had not received ChoicePoint's notification
- 6 weren't sure whether or not they had received ChoicePoint's letter
- One was confused and thought ChoicePoint's letter was a scam
- 6 stated that they were very concerned about the data loss resulting in ID theft
- 2 experienced ID theft prior to being notified of the breach, and stated that they felt the ID theft was the result of ChoicePoint's data breach
- 2 specifically requested data monitoring for a period longer than one year
- 2 letters were returned because the debtors were deceased

Our agency then wrote to ChoicePoint, with the following requests:

- 1) For those consumers requesting ongoing, free credit monitoring past the one year originally offered, we asked ChoicePoint to extend that coverage by at least an additional 12 months. These consumers feel strongly that ID theft may occur at a point in time past 1 year after the breach.
- 2) For those who claim not to have received ChoicePoint's letter, who don't remember whether or not they received it or who were confused by the letter, we have asked that ChoicePoint re-issue its original offer, on its own or as facilitated through our office.
- 3) For those whose letters were returned, we have asked for ChoicePoint whether it was subsequently able to determine valid, alternate addresses.

ChoicePoint has been asked to respond within 60 days. The company has been cooperative with Maine credit regulators to date, and we expect that an agreeable resolution can be reached on these final issues.

Regulators Prohibit Unlicensed, High-Cost "Litigation Financing"

Civil lawsuits can take a long time to reach a conclusion, and plaintiffs often find themselves in need of spending money while they wait for their cases to settle or go to trial.

Some lenders or investors see this as an opportunity, and have established "litigation funding" companies. These companies make loans to civil plaintiffs. Rather than take a security interest in the borrowers' homes or cars, however, the lenders take security interests in, or liens on, the future proceeds of their lawsuits.

These funds come at a high cost. One company, Pre-Settlement Finance, LLC, of Staten Island, NY, charges 3.5% per month, compounded monthly. The company's own disclosure documents show just how fast a consumer's debt can grow.

In a typical example, the company will advance a plaintiff \$10,000. Once an "application fee" (\$250) and a "broker fee" (\$1,000) are added, the total amount on which calculations are based is \$11,250.

Within 9 months, the consumer owes more than \$15,000 on the \$10,000 advance.

In less than 18 months, the debt has doubled, to more than \$20,000. And in less than 2½ years, the \$10,000 debt has more than tripled, to \$30,000.

Another such lender, Global Financial Credit, LLC, of Bedford Hills, NY, charges an even higher rate, 3.99% per month. Global also boosts its revenue by giving itself \$1,200 of its own money back as a "minimum return fee".

Both Global and Pre-Settlement deny that they are lenders. Pre-Settlement's contract states that the deal is a "non-recourse sale and/or lien," while Global's paperwork defines the transaction as a "non-recourse investment agreement," or "lawsuit insurance." In each case, if no money is received by the plaintiff as a result of the lawsuit, the plaintiff is not required to repay the advance.

Both contracts are structured to attempt to avoid the crime of "champerty" (acquiring another's right to sue). In each case, the company denies that it interferes in any way with the deliberations in the civil cases. However, the contracts are not always consistent with this hands-off approach: Global's agreement, for example, requires that the plaintiff or his attorney turn over to Global, at any time upon request, "all ... proposals or agreements ... relating to resolution, settlement and/or alternate dispute resolutions of the legal claim ..."

In response to questions from two Maine attorneys whose clients signed such agreements, the Office of Consumer Credit Regulation recently opined that litigation funding constitutes consumer lending, and is subject to the Maine Consumer Credit Code. This preliminary ruling signifies that the loan interest rate caps in Maine laws apply (30% per year on the first \$2,000, 24% on the next \$2,000, and 18% on the next \$4,000; or 18% on any loans in excess of \$8,000), and also that such companies must be licensed as supervised lenders.

No litigation companies have sought licensing to date, nor have they reduced their fees and charges to the levels permitted by Maine law.

Examination Summary July 1, 2004 through June 20, 2005

by Del Pelton, Principal Examiner

Total Exams (including 282 in-house exams): 464

By Business Type:

Supervised Lenders	161
Debt Collectors	79
Auto Dealers	75
Mortgage Brokers	48
Leasing Companies	44
Pawn Brokers	17
Sales Finance Companies	14
Payroll Processors	14
Money Transmitters	4
Credit Reporting Agencies	4
Loan Servicers	1
Rental Purchase Companies	1
Payday Lenders	1

Total Restitution resulting from exams: \$81,181.39

Most common violations:

Mortgage Brokers: Incomplete or no contract provided ...	192
Supervised Lenders: Incomplete or no attorney notice provided	81
Supervised Lenders: Incomplete or no broker agreement ..	78
Mortgage Brokers: No written disclosure provided	66
Auto Dealers: Incomplete and/or Incorrect disclosures. ...	48
Mortgage Brokers: No privacy notice provided	45
Debt Collectors: Incorrect or incomplete collection letters. ...	38
Supervised Lenders: Credit denial incorrect or incomplete .	37
Supervised Lenders: Incorrect and/or incomplete truth-in-lending disclosures	34
Rental Purchase Companies: Incorrect and/or incomplete disclosures	28

ASK THE DIRECTOR

Complying with the new Private Mortgage Insurance ("PMI") disclosure law

Question: We are a mortgage company and we need guidance complying with the new PMI disclosure law. We would like to add the following sentence to our current "Consumer's Rights to Choose Their Own Attorney" notice:

"ABC Mortgage Company employs underwriters who may also be employed by private mortgage insurance (PMI) companies. Your loan on residential property may be underwritten by one of these individuals."

Although we would like to be more specific by telling a consumer whether or not their specific underwriter also is in the PMI business, we can't do so, because at the time of application, we're not sure to which underwriter the loan will be forwarded.

Answer: The statute (Public Laws 2005, Chapter 211, enacting a new §506 in Title 33 MRSA) requires that the loan applicant be informed "at the time of application" whether their loan processor or underwriter provides PMI. If some of your underwriters handle PMI and others do not, and if for that reason you do not know at the time of application whether or not the underwriter assigned to that file also offers PMI, our office will permit you to use the provisional "may be employed" and "may be underwritten" language proposed in your draft disclosure form.